

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5105      **BILL HEWS** 14-02      State University System Performance Funding Model

**SPONSOR(S):** Higher Education & Workforce Subcommittee, Fresen

**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Higher Education & Workforce Subcommittee	12 Y, 0 N	Sherry	Sherry
1) Appropriations Committee		Garner	Leznoff

### SUMMARY ANALYSIS

In line with the shared governance agreement between the Board of Governors and the Legislature, the bill provides a framework upon which the Board of Governors can assess the performance and improvement of state universities and distribute performance funds appropriated by the Legislature.

The bill:

- Specifies that performance funding shall be allocated to preeminent state research universities based upon the academic and research excellence standards established by the Legislature to attain preeminent designation in s. 1001.7065, F.S.;
- Establishes standards for all other state universities that will be used to allocate performance funding for those universities;
- Applies the standards to Florida Polytechnic University beginning July 1, 2022; and
- Provides for specific standards that reflect the unique mission of New College of Florida.

The bill requires the Board of Governors (BOG) to use these standards to establish a performance funding model which allocates the funds to provide rewards and sanctions based on each university's performance.

Within this model, preeminent university academic and research excellence standards are worth twice the value of the quality standards established for the other universities.

Once the BOG implements the funding model, it will submit a budget amendment with the allocation of the funds based on each university's performance and, upon approval by the Legislative Budget Commission, the funds will be released.

To enhance transparency and clarity of student and parental choice options, the bill requires the BOG to design and annually disseminate a report card for each university that displays the university's rankings on the performance funding model standards.

Finally, the bill requires the BOG to adopt regulations to implement the bill.

The bill has an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

###### State University System Governance Agreement

In 2007, a group of citizens filed a lawsuit against the Legislature that sought to clarify the scope of the Board of Governors (BOG's) constitutional authority and identify the entity that has the authority to set SUS tuition and fees. Subsequently, this lawsuit was joined by the BOG.

On March 24, 2010, the Chair of the BOG, the Chancellor of the State University System (SUS), legislative leaders and the Governor signed a State University System Governance Agreement acknowledging their shared constitutional authority for the state universities as set forth in the Constitution of the State of Florida. The components of the State University System Governance Agreement include master planning and coordination of Florida's higher education systems; strategic planning; university governance; financial aid programs; the Administrative Procedures Act and BOG regulations; tuition; and fees. As a result of the State University System Governance Agreement, the BOG filed a notice of dismissal, with prejudice, of their claims in the 2007 lawsuit filed against the Legislature. The presiding officers agreed to file legislation in accordance with the framework set forth in the governance agreement and to exercise their best efforts to accomplish the final passage of the legislation.<sup>1</sup> On January 31, 2013, the Florida Supreme Court issued a ruling in favor of the Legislature, holding that the Florida Constitution does not indicate intent to delegate the Legislature's power to set and appropriate for the expenditure of tuition and fees to the BOG. Thus, the challenged statutes, by which the Legislature exercises control over tuition and fees, are facially constitutional.<sup>2</sup>

###### Board of Governors State University System – Three-Part Accountability Framework

The SUS has developed three tools that aid in guiding the System's future.

- The BOG Strategic Plan 2012-2025 is driven by goals and associated metrics that stake out where the SUS is headed;
- The BOG's Annual Accountability Report provides yearly tracking for how the SUS is progressing toward its goals;
- Institutional Work Plans connect the two and create an opportunity for greater dialogue relative to how each institution contributes to the SUS's overall vision.<sup>3</sup>

These three documents assist the BOG with strategic planning and with setting short-, mid-, and long-term goals. They also enhance the SUS's commitment to accountability and driving improvements in three primary areas of focus: 1) academic quality, 2) operational efficiency, and 3) return on investment.<sup>4</sup>

In November 2011, the BOG adopted the State University System of Florida Strategic Plan 2012 – 2025. The plan provides a mission statement and a vision statement for the SUS and, subsequently has identified goals and performance indicators for the thirteen year planning period. The BOG Strategic Plan for 2012 – 2025 is not a static document, but is an evolving plan. BOG goals and

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<sup>1</sup> Florida Legislature, *State University System Governance Agreement* (March 24, 2010); see also ch. 2010-78, L.O.F.; staff of the Florida House of Representatives, *Legislative Bill Analysis for HB 7237* (2010).

<sup>2</sup> See *Graham v. Haridopolos*, 108 So. 2d 597, 599 (Fla. 2013).

<sup>3</sup> State University System of Florida Board of Governors, Board of Governors 2013-14 Work Plan Reports, System Report, available at <http://www.flbog.edu/resources/publications/workplan.php> (last visited March 14, 2014).

<sup>4</sup> *Id.*

performance indicators will continue to be refined during the period of the 2012 – 2025 Strategic Plan in consultation with the state universities and other stakeholders.<sup>5</sup>

Each state university's progress toward attainment of the BOG's 2025 Goals will be determined by its unique and distinctive mission as expressed in its institutional strategic plan and its multi-year work plan. During this period, the BOG will work with the universities to establish parallel goals that will align institutional strategic plans with the BOG Strategic Plan and will recognize and reflect each institution's commitment to and participation in the BOG's Strategic Plan 2012-2025.<sup>6</sup>

The BOG will focus on three critical points of emphasis that will provide a framework for the targeted 2025 Goals and recognize the university's teaching, research, and public service priorities: Excellence, Productivity, and Strategic Priorities for a Knowledge Economy.<sup>7</sup>

### Preeminent State Research Universities Program

In 2013, the Legislature passed SB 1076, which established a collaborative partnership between the BOG and the Legislature to raise the academic and research excellence and national preeminence of the highest performing state research universities in Florida.<sup>8</sup> The partnership stems from the March 24, 2010, SUS Governance Agreement that affirmed the commitment of the BOG and the Legislature to continue collaboration on accountability measures, the use of data, and recommendations derived from such data.<sup>9</sup>

The Preeminent State Research Universities Program was created and BOG was provided the authority to designate a qualifying institution as a preeminent state research university if it meets at least 11 of the 12 academic and research excellence standards.

The academic and research excellence standards are a series of benchmarks in research productivity, endowment size, student success indicators, national rankings, and other measures identified by national databases and research groups that indicate national prominence. The twelve standards are predicated in part upon data collected by nationally recognized entities, including the Integrated Postsecondary Education Data System (IPEDS)<sup>10</sup>, the National Science Foundation (NSF)<sup>11</sup>, and the Center for Measuring University Performance<sup>12</sup>, which annually publishes the Top American Research Universities (TARU) report<sup>13</sup>.

The BOG must designate a SUS institution as a preeminent state research university once it substantially meets, as verified by the BOG, at least 11 of the following 12 academic and research excellence standards:<sup>14</sup>

- An average weighted grade point average of 4.0 or higher on a 4.0 scale and an average SAT score of 2800 or higher for fall semester incoming freshman, as reported annually.
- A top-50 ranking on at least two well-known and highly respected national preeminence, using most recent ranking.
- A freshman retention rate of 90 percent or higher for full-time, first-time-in-college student, as reported annually to the IPEDS.

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<sup>5</sup> State University System of Florida, Board Of Governors, *Strategic Plan 2012-2025*(2011), available at [www.flbog.edu/.../2011-11-28\\_Strategic\\_Plan\\_2012-2025\\_FINAL.PDF](http://www.flbog.edu/.../2011-11-28_Strategic_Plan_2012-2025_FINAL.PDF),

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Section 1001.7065(1), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> Integrated Postsecondary Education Data System, About IPEDS, available at <http://nces.ed.gov/ipeds/about> (last visited March 13, 2014).

<sup>11</sup> National Science Foundation, *About the National Science Foundation*, <http://www.nsf.gov/about/> (last visited March 13, 2014).

<sup>12</sup> The Center for Measuring University Performance, *The Center for Measuring University Performance*, <http://mup.asu.edu/index.html> (last visited March 16, 2014).

<sup>13</sup> The Top American Research Universities, *2012 Annual Report*, <http://mup.asu.edu/research.html> (last visited March 16, 2014).

<sup>14</sup> Section 1001.7065(2), F.S.

- A 6-year graduation rate of 70 percent or higher for full-time, first-time-in-college student, as reported annually to the IPEDS.
- Six or more faculty members at the state university who are members of a national academy, as reported by the Center for Measuring University Performance in the TARU annual report.
- Total annual research expenditures, including federal research expenditures, of \$200 million or more, as reported annually by the NSF.
- Total annual research expenditures in diversified nonmedical sciences of \$150 million or more, based on data reported annually by the NSF.
- A top-100 university national ranking for research expenditures in five or more science, technology, engineering, or mathematics fields of study, as reported annually by the NSF.
- One hundred or more total patents awarded by the United States Patent and Trademark Office for the most recent 3-years periods.
- Four hundred or more doctoral degrees awarded annually, as reported in the Board of Governors Annual Accountability Report.
- Two hundred or more postdoctoral appointees annually as reported in the TARU annual report.
- An endowment of \$500 million or more, as reported in the Board of Governors Annual Accountability Report.

The BOG is encouraged to identify and grant all reasonable and feasible authority and flexibility to keep designated preeminent universities free from unnecessary restrictions.<sup>15</sup> It is also encouraged to identify individual programs within state universities that objectively reflect national excellence and make recommendations to the Legislature as to how any such programs could be enhanced and promoted.<sup>16</sup>

### Performance Based Funding

The BOG began a discussion on a new performance funding model in the fall of 2012 at the direction of the BOG Chair. The topic first appeared on the BOG's Budget & Finance Committee agenda in November 2012 and was on every Committee agenda through January 2014, for a total of seven public meetings. At each meeting, the Committee discussed issues surrounding the model and reviewed materials on other state performance models. During this time the university provosts held meetings and included the performance funding model on their agenda and participated in conference calls with BOG staff. BOG staff researched other state's performance funding models, read the literature on various models and participated in national meetings to discuss and learn more about performance funding<sup>17</sup>.

The BOG identified four guiding principles early in the process that were used in the development of the model:

- Align the metrics with the State University System's *Strategic Plan* goals.
- Reward excellence as well as improvement.
- Acknowledge unique institutional missions.
- Use simple, clear metrics.

The BOG initially started with 14 standards but eventually settled on 10 standards, with two of those standards being discretionary; one chosen by the BOG and one by the university board of trustees. At the September, 2013 meeting, the BOG chose one metric and requested the board of trustees of each university to choose one standard from the standards approved in the State University System Annual Accountability Report. At the November meeting, the BOG approved each university board of trustees' standard. The BOG then directed its staff to work with each university to set the benchmark for the two discretionary standards. Staff communicated with each university about proposed benchmarks and received comments from about half of the universities.

<sup>15</sup> Section 1001.7065(8), F.S.

<sup>16</sup> Section 1001.7065(9), F.S.

<sup>17</sup> Email, State University System of Florida, Board of Governors (March 14, 2014).

At the January 2014 BOG meeting, the performance funding model, including the standards and benchmarks, were approved.

### **Effect of Proposed Change**

In line with the shared governance agreement between the Board of Governors and the Legislature, the bill provides a framework upon which the Board of Governors can assess the performance and improvement of state universities and distribute performance funds appropriated by the Legislature.

The bill specifies that performance funding shall be allocated to preeminent state research universities based upon the academic and research excellence standards established by the Legislature to attain preeminent designation in s. 1001.7065, F.S.

The bill establishes standards for all other state universities that will be used to allocate performance funding for those universities and specifies that the standards will apply to Florida Polytechnic University beginning July 1, 2022.

New College of Florida is subject to the same standards as the other universities; however, due to its unique mission as a small residential arts and sciences honors college, it is exempt from the following measures: average cost per undergraduate degree and graduate degrees awarded in strategic areas of emphasis as designated by the BOG. In lieu of those measures, New College of Florida shall be measured by the number of Fulbright Scholars and other national award recipients per 100 undergraduates and the percent of undergraduate courses taught by tenure-track professors.

The bill requires the BOG to establish a performance funding model that incorporates the aforementioned standards. The BOG shall establish a scale of both excellence and improvement benchmarks for each standard and assign a point value to each benchmark. The institutions which have been designated as preeminent research institutions, Florida State University and the University of Florida, shall be assessed on the specified academic and research excellence standards in s. 1001.7065, F.S. These standards are worth twice the amount of the maximum achievable points of the academic quality standards. The compilation of each earned point will determine the university's score within the model. The universities whose scores meet or exceed a specified threshold will be allocated funding proportionate to their achieved score. The funds that are dedicated to the performance funding model shall be placed in reserve and held until the BOG submits and the Legislative Budget Commission approves a budget amendment reporting the universities' scores and the subsequent allocation of the funds.

To enhance transparency and clarity of student and parental choice options, the bill requires the Board of Governors to design and annually disseminate a report card for each university that displays the university's rankings on the performance funding model standards.

Finally, the bill requires the BOG to adopt regulations to implement this section.

#### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1001.7065, F.S. to provide a mechanism for state universities that were not designated a preeminent state research university prior to the 2014-15 fiscal year to be designated as such upon meeting at least 11 of the 12 academic and research excellence standards identified in subsection (2).

**Section 2.** Creates s. 1001.707, F.S., to provide for legislative intent; directing the Board of Governors to establish a performance funding model and reporting system; establishing applicable standards for state universities for purposes of a performance funding model; directing the BOG to establish benchmarks for each standard established in the bill; directing the BOG to implement a weighted scoring system to measure the achievement and improvement of each university; Specifying the weight of specific standards within the scoring system; establishing the data upon which the funding model shall be based; specifying that funds for the performance model are subject to legislative appropriation in the General Appropriations Act; requiring that funds appropriated each year be held in

reserve until the Legislative Budget Commission approves a budget amendment allocating the BOG performance funding based on the BOG's scoring system; establishing a date by which the BOG shall submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives containing each university's scores on each of the standards based on data from the prior academic year and any suggested changes to the benchmarks or standards; directing the BOG to establish a report card for each university that displays the university's ranking on each of the standards; and directing the BOG to adopt regulations to implement this section.

**Section 3.** Provides an effective date of July 1, 2014.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The Board of Governors has the authority to allocate funds provided in the General Appropriations Act for university performance upon the approval of the Legislative Budget Commission.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require municipalities or counties to expend funds or to take any action requiring the expenditure of funds, reduce the authority that municipalities or counties have to raise revenues in the aggregate, or reduce the percentage of state tax shared with municipalities or counties.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill requires the Board of Governors to adopt regulations to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.